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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---------------------------------------------------------------------|-------------|----------------------|---------------------|------------------|
| 10/637,160 | 08/08/2003 | Kevin R. Seifert | P-11309.00 | 2921 |
| 27581 | 7590 | 01/03/2006 | EXAMINER | |
| MEDTRONIC, INC. 710 MEDTRONIC PARK MINNEAPOLIS, MN 55432-9924 | | | BOCKELMAN, MARK | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3766 | |
| DATE MAILED: 01/03/2006 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/637,160

Applicant(s)

SEIFERT ET AL.

Examiner

Mark W. Bockelman

Art Unit

3766

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 15, ~~18~~-25 and 27-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 27-29 is/are allowed.
- 6) ☒ Claim(s) 1-12, 15, 19-25 is/are rejected.
- 7) ☐ Claim(s) 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claim 9 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 9 and 24 appear to reiterate the anchor being formed of a biocompatible material.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Baeten et al. USPN 5,425,751. Baeten teaches and electrode lead 44 and a non rigid tether in the form of a suture with an anchoring coil 34 thereon. Applicant's statement of intended use regarding the anchor surface provides no identifying structure since the coil portion could be grabbed by forceps and pushed into tissue. The coil member and suture are made of bioabsorbable material (column 3 lines 48+)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12, 15, 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pravoverov et al. USPN 4,273,137 in view of Shchervinsky USPN 6,173,206. Pravoverov et al. show a lead body 1 having an electrode 4, which have a lumen (or passageway) there through for the conductor wire 2 to pass through. The device has tethered portions 2 shown as helical shaped members that extend to an anchor 5 that has a rear face capable of being pushed a recess midway on the body and a conical tip. The device is implanted with the aid of a tool, namely a mandrin (column 2 line 50), which could potentially be used to push the lead anchor member 50. The cover may be silicone rubber (column 2 lines 47-49).

Applicant differs in reciting a bioabsorbable material as part of the lead, polyester coating, tines for anchoring and various shapes which would have been obvious inclusions for providing better securement into the tissue. Such items are well known in the art as evidenced by Schchervinsky which teaches an anchoring member with an optional electrode 28 and bioabsorbable portion 18 with tine 26 and conical portion in front. To have substituted the Schchervinsky anchor-electrode member 18 for the implantation electrode 5 of Pravoverov et al would have been obvious for stimulating the myocardium. On addition many procedures are performed laproscopically which

entails placing a tube or needle through skin and inserting instruments and implants there through. To have used a needle for inserting the Pravoverov et al. electrodes would have been obvious

Response to Arguments

Applicant's arguments with respect to claims 1-2, 15, 18-25 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

Claims 27-29 are allowed.

Claim 18 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark W. Bockelman whose telephone number is (571) 272-4941. The examiner can normally be reached on Monday - Friday 10:00 to 6:30.

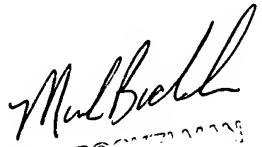
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272 -6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MWB

December 27, 2005


2005 DEC 27 10:00 AM